

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LORENZO WHITAKER,
Petitioner,

v.

TAMMY FERGUSON,
Superintendent,
Respondent,

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CIVIL ACTION

NO. 17-00963

ORDER

AND NOW this 6th day of Sept., 2017, upon careful and independent consideration of Lorenzo Whitaker's petition for writ of habeas corpus (Doc. No. 1), the Commonwealth's Motion to dismiss the petition without prejudice (Doc. No. 7), and the Report and Recommendation of U.S. Magistrate Judge Richard A. Lloret, it is ORDERED that:

1. The Report and Recommendation of Magistrate Judge Richard A. Lloret is APPROVED and ADOPTED;
2. Whitaker's Petition for Writ of Habeas Corpus is DENIED and DISMISSED without prejudice;
3. No certificate of appealability shall issue under 28 U.S.C. § 2253(c)(1)(A) because "the applicant has [not] made a substantial showing of the denial of a constitutional right[.]" under 28 U.S.C. § 2253(c)(2), since he has not demonstrated that "reasonable jurists" would find my "assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); see *United States v. Cepero*, 224 F.3d 256, 262-63 (3d Cir.

2000), *abrogated on other grounds by Gonzalez v. Thaler*, ____ U.S. ____,
132 S. Ct. 641 (2012); and,

4. The Clerk of Court shall mark this file closed.

BY THE COURT:



HON. MITCHELL S. GOLDBERG
U.S. District Judge